




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101



August 16, 1999

Mr. Bob Turner
Washington Area Director
National Marine Fisheries Service
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

Dear Mr. Turner: 

The Environmental Protection Agency (EPA) and the Department of Ecology (Ecology) would like to thank you for your participation in the July 23rd meeting regarding the Lower Duwamish River Sediment Cleanup and Source Control Project. EPA and Ecology are encouraged by the opportunity to pursue a collaborative, comprehensive sediment remedial investigation of the Lower Duwamish, through the use of a negotiated federal Administrative Order on Consent.

We believe that the most efficient way to proceed is for the Project Leads from our agencies to begin working directly with appropriate staff from King County, City of Seattle, Port of Seattle, and Boeing on the legal documents, draft Scope of Work/Workplan, and a schedule for timely implementation (please see attachment). We strongly encourage your staff to be open to this early involvement. We believe it is the best approach to minimize the negotiation part of the work before us.

EPA and Ecology also consider the Muckleshoot and Suquamish Tribes, and the Natural Resource Trustees as partners in this effort. Their input and participation will be important for the Lower Duwamish River Sediment Cleanup and Source Control Project.

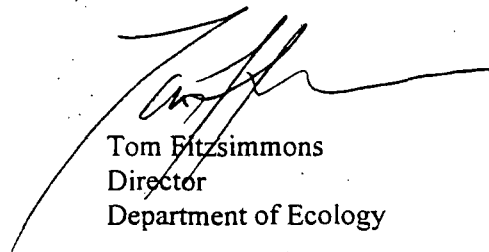
The primary contacts for this project are EPA Project Lead Loren McPhillips (206-553-4903), and Ecology Project Lead Rick Huey (425-649-7256). We look forward to working with you to achieve efficient and effective environmental and human health protection in the Lower Duwamish River.

Sincerely,



Chuck Clarke
Regional Administrator, Region 10
Environmental Protection Agency

Sincerely,



Tom Fitzsimmons
Director
Department of Ecology

Attachment

Cc: Michelle Pirzadeh, EPA Region 10 Superfund Office
Jim Pendowski, Ecology Toxics Cleanup Program

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EPA AND ECOLOGY MAJOR ISSUES FOR THE LOWER DUWAMISH RIVER PROJECT

August 3, 1999

1. **Listing Package:** As discussed at the Lower Duwamish River meeting on July 23, 1999, EPA will now start to assemble the support package for listing the site on the Superfund National Priorities List. Region 10 EPA anticipates making a decision on listing the river as a Superfund Site this fall.
2. **Participation Agreement:** EPA and Ecology understand that four major parties (Boeing, the City of Seattle, King County, and the Port of Seattle), are working together on a partnership agreement to determine how the parties will participate with EPA and Ecology during the Remedial Investigation/Feasibility Study (RI/FS) process.
3. **Creative Solution:** An alternative to listing the Lower Duwamish River as a Superfund Site is to delay the listing decision until later, and proceed through the RI/FS process using an administrative order on consent (AOC). At the end of the RI/FS process, EPA and Ecology would then evaluate the listing options including: listing the site on EPA's National Priorities List, deferring the listing to the State, or continuing the remedial process with another legal document.
4. **Administrative Order on Consent (AOC):** After consultation with the Tribes, the Natural Resource Trustees, and the four major parties, EPA and Ecology have determined that the most appropriate enforcement tool for a collaborative RI/FS is a federal administrative order on consent. EPA's model AOC for the RI/FS would be used as the basis for a multi-party agreement. The four major parties, EPA, and Ecology would all sign the agreement and it would cover the entire RI/FS segment of work (Phase I and II).
5. **Statement of Work (SOW):** A SOW/Workplan describes the broad objectives, general activities to be undertaken, and deliverables to be submitted by the major parties as part of the RI/FS. EPA and Ecology understand that the four major parties are working on a two phased approach to the RI/FS. In this case, a SOW/Workplan for Phase I of the RI/FS should be developed quickly and attached to the AOC. The AOC would also include a provision for incorporation of future SOW/Workplan's (i.e. Phase II) into the order as appropriate.
6. **Timing for Drafting an AOC:** EPA and Ecology would like to begin drafting the AOC and SOW immediately. We suggest that our legal counsels get together to draft the AOC in the near future (early August). The EPA and Ecology Project managers would also like to meet on a regular basis (Wednesday afternoons) with a small working group from the four major parties to prepare a draft SOW/Workplan.